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Application of: NORD et al.
Serial Number: 10/681,726
Filed: OCTOBER 8, 2003

Subject: **For:** FABRIC WITH ODOR
RECEIVING LAYER
Group Art Unit: 1771
Case No. 5584
U.S. PTO Customer No. 25280

Date: Tuesday, April 26, 2005

Copies: **Pages:** 3, Including cover

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U.S. PTO Customer No. 25280

Case No. 5584

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: THOMAS D. NORD, ROWAN LANGFORD, AND WILLIAM MCLEOD

Serial Number: 10/681,726

Filed: OCTOBER 8, 2003

For: FABRIC WITH ODOR RECEIVING LAYER

Group Art Unit: 1771

Examiner: JUSKA, CHERYL ANN

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I hereby certify that this correspondence, and all correspondence referenced herein as being enclosed with this correspondence, is being transmitted by facsimile to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, at (703) 872-9306 on:

Date: April 26, 2005

Signature: Alissa D. Kohlman
Name: Alissa D. Kohlman

Sir:

RESPONSE

This reply is in response to the Office Action dated January 26, 2005.

This Response is filed in connection with the Examiner's Office Action, dated January 26, 2005, that contained a sole, provisional rejection, based on 35 U.S.C. 101. For the reasons set forth below, Applicants are confused as to the basis for the Examiner's provisional rejection, and are unable at this time to respond appropriately to that rejection.

The Office Action dated January 26, 2005 states that Claims 1-16 (i.e., all pending claims) of Application No. 10/681,726 (the present application, Attorney Docket No. 5584) have been provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of Claims 1-16 of commonly assigned and co-pending Application No. 10/681,412 (Attorney Docket No. 5585). The Examiner speculates that the specification and claims for the latter application (i.e., the '412 application) were incorrectly filed in the present application (i.e., the '726 application). Applicants have been unable to confirm this situation.

According to the Attorney's files, the present application (the '726 application, Attorney Docket No. 5584) contains 45 claims, all of which are directed to a tufted fabric or floor covering having an odor-receiving

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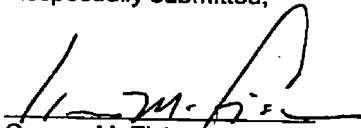
layer, whereas the '412 application contains 16 claims directed to a modular area rug system that does not mention an odor-receiving layer. Applicants' attorney is in possession of a stamped post card receipt from the U.S. Patent and Trademark Office that confirms that the application submitted under this docket number had a total of 19 pages, which corresponds to the number of pages in the Attorney file copy of the '726 application (including claims and abstract). The Attorney file copy of the '412 application, on the other hand, contains a total of 14 pages (including claims and abstract), a count confirmed by the U.S.P.T.O.-stamped post card receipt for this application. These two cases have entirely separate inventive entities, and appear to have little relation to one another (including claimed subject matter) except for ownership and prosecution responsibility. Accordingly, Applicants are unable to understand the rationale for the Examiner's provisional rejection, and clarification is respectfully requested.

Applicants believe that no fee is due. However, to any extent required for acceptance of this paper, an extension of time is hereby requested. In the event that there are additional fees associated with the submission of these papers (including extension of time fees), authorization is hereby provided to withdraw such fees from Deposit Account No. 04-0500.

April 26, 2005

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Respectfully submitted,



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